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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
(PORTLAND DIVISION)

CHRISTOPHER FARRELL; FARRELL
PILOTAGE, INC., an Oregon corporation; and
COLUMBIA RIVER BAR PILOTS, LLC, an
Oregon limited liability company,

Plaintiffs,

v.

FOSS MARITIME COMPANY, a
Washington corporation,

Defendant.

Case No.:

COMPLAINT

(28 U.S.C. §§ 1331, 1332)

DEMAND FOR JURY TRIAL

Plaintiff alleges as follows:

1. Plaintiff Christopher Farrell is a state-licensed Columbia River Bar Pilot who resides in Astoria, Oregon.
2. Plaintiff Farrell Pilotage, Inc. is an Oregon corporation owned entirely by Christopher Farrell and is the entity through which Captain Farrell provides pilotage services on the Columbia River Bar.
3. Columbia River Bar Pilots, LLC is an Oregon limited liability company that includes as its members each of the individual state-licensed Columbia River Bar Pilots.

4. Defendant Foss Maritime Company is a Washington corporation that owns and operates tugboats and other vessels on the Columbia River.

5. This Court has jurisdiction pursuant to 28 U.S.C. § 1332 because diversity of citizenship exists between the parties and the amount in controversy exceeds \$75,000 and pursuant to 28 U.S.C. § 1331 because plaintiffs' claims arise under the general maritime laws of the United States.

6. On or about August 5, 2015, after completing an inbound pilotage assignment aboard the M/V CHANG TAI HONG, Captain Farrell proceeded to disembark the ship via pilot latter to the pilot launch CONNER FOSS in the Columbia River near Astoria, Oregon. The CONNOR FOSS is a vessel that is owned and operated by defendant.

7. In attempting to disembark, Captain Farrell slipped on the deck of the pilot launch CONNOR FOSS and severely injured his right shoulder.

8. As a result of his injuries, Captain Farrell was diagnosed as having suffered a torn rotator cuff injury, which required surgery and six months of recovery.

9. As a further result of the injuries suffered by Captain Farrell, Farrell Pilotage, Inc. and Columbia River Bar Pilots, LLC were deprived of the income generating pilotage services that, but for suffering a torn rotator cuff, Captain Farrell would have performed during the period that he was off the pilotage grounds for surgery and six months of recovery.

FIRST CLAIM FOR RELIEF

(Breach of Warranty of Workmanlike Service)

10. Plaintiffs reallege the allegations of paragraphs 1 – 9.

11. Defendant and the Columbia River Bar Pilots are parties to a Launch Services Agreement under which defendant is required to provide launch services to all state-licensed Columbia River Bar Pilots and any entity through which they provide those services in a newly constructed launch vessel capable of providing launch services in all weather conditions at the mouth of the Columbia River. Plaintiffs' Captain Farrell and Farrell Pilotage, Inc. are the intended third party beneficiaries of this agreement.

12. Defendant breached its warranty under the Launch Services Agreement to provide launch services to Captain Farrell, Farrell Pilotage, Inc. and the Columbia River Bar Pilots in a workmanlike fashion by failing to equip the pilot launch vessel CONNOR FOSS with a non-slip surface on her deck.

13. As a proximate result of defendant's breach of its warranty to provide workmanlike launch service to plaintiffs on August 5, 2015, Captain Farrell and Farrell Pilotage, Inc. suffered economic loss in the approximate amount of \$300,000, but which will be proven with specificity at trial.

14. Pursuant to the Launch Services Agreement, plaintiffs are entitled to an award of reasonable attorney's fees incurred in prosecuting this claim.

SECOND CLAIM FOR RELIEF

(Negligence)

15. Plaintiff Christopher Farrell realleges the allegations of paragraphs 1 – 9.

16. The CONNOR FOSS is a vessel that was built in 2012 for defendant and constructed in accordance with defendant's approved design and specifications. Despite knowing that the CONNOR FOSS was destined for service as a pilot launch vessel serving pilots

embarking and disembarking vessels in the Columbia River in all weather conditions, defendant negligently failed to require the installation of a non-slip surface on the deck of the CONNOR FOSS.

17. The proximate cause of Captain Farrell's injury was an unseaworthy condition aboard the CONNOR FOSS, specifically the absence of a non-slip surface on the deck of the vessel.

18. Defendant's negligence as alleged above was the proximate cause of Captain Farrell's injuries, including medical costs, pain and suffering and substantial loss of income. Captain Farrell's damages will be proven with specificity at trial, but are presently estimated to be \$600,000.

WHEREFORE plaintiffs pray for judgment against defendant in an amount to be specifically proven at trial, but presently estimated at \$600,000 and for their reasonable attorneys' fees, costs and disbursements incurred herein.

DATED this 24th day of January, 2019.

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